

WASHINGTON, DC—On April 1, 2009, Congressman Joe Sestak (PA-07) voted against two bills that represent a flawed approach to limiting compensation for employees of companies that have received federal support. H.R. 1575, the End Government Reimbursement of Excessive Executive Disbursements Act of 2009, was rejected by the House of Representatives by a vote (under suspension of the rules) of 223 to 196. H.R. 1664, the Pay for Performance Act of 2009, passed by a vote of 247 to 171.

“Let me be clear: I oppose excessive bonuses and compensation paid out by certain institutions that have been rescued at great expense by the American taxpayers, which is why I voted on March 19 to recoup the AIG bonuses,” Congressman Sestak said. “Some bonuses, like those paid by AIG to some of the very people who have recklessly damaged our financial system are an outrage to the American people and an irresponsible use of taxpayer dollars. However, if we demand responsibility, we in Congress must act responsibly ourselves. We must ensure that our actions in this crucial matter are reasoned, targeted, effective, and do not have unintended or counterproductive consequences.”

“On March 19, I voted for H.R. 1586, the Bonus Recoupment Tax Bill, to tax certain bonuses paid out by TARP recipients at a rate of 90%,” the Congressman continued. “As I said at the time—and I reiterated during a television interview—that was an imperfect bill. I voted for it because it was important to send a clear message to Wall Street and to the American people. Also, there is evidence in the AIG case that suggests that they expected large losses and intentionally were trying to shield their compensation from those losses. I said at the time of that vote that it was crucial that all reform efforts going forward must be carefully considered and must not unduly penalize any good, hardworking Americans or have an adverse effect on our economic recovery. These bills today failed that test.”

The reason Congressman Sestak had concerns about H.R. 1575 is because it would have authorized the Attorney General to commence civil action to recover previous excessive compensation paid by any company that received over \$10 billion in federal financial assistance on or after September 1, 2008, if such entity received less than a “reasonably equivalent value” in exchange for such payment. Such an undefined term as “reasonably equivalent value” would result in very subjective determinations and years of potentially costly and needless litigation. Additionally, this measure would have allowed the Justice Department to file civil actions to limit the compensation of certain employees regardless of contractual agreements, unnecessarily undermining the contractual process that is at the heart of our financial system.

H.R. 1664, the Pay for Performance Act of 2009, would prohibit any retention payment, bonus, or other supplemental payment not directly tied to performance standards set by regulators—but it applies retroactively to all institutions receiving federal support—and all employees of those institutions, including low-level staff. Even small, healthy financial institutions that have not paid excessive bonuses or compensation would fall under the provisions of this bill.

“This bill does contain some good provisions,” Congressman Sestak said, “but I cannot support it because it retroactively sweeps up all institutions that have accepted federal funds, including small, community banks. Many of these banks took money not because they were unhealthy, but because we, the government, asked them to participate in programs to increase credit lending. Already, four healthy banks have returned funds because of concerns about this legislation—meaning the unintended consequences of this bill could hurt our own critical efforts to increase lending. This bill does make important strides toward instituting performance-based compensation, but it is not targeted—it applies not only to egregious cases like the one at AIG, but to all banks and even all employees, right down to building staff.”

“My constituents should be confident that there is no greater advocate for accountability, transparency, and responsibility in government or corporate America,” the Congressman said. “But we must always act in a way that is prudent, effective, and respects the letter of the law. I support compensation reform, but it should be carried out in conjunction with the shareholders—who, after all, are the owners of these institutions—and it should begin with making all bonuses and compensation fully transparent. That’s why I voted—a year ago—for H.R. 1257, the ‘Say on Pay’ bill that would have given shareholders a voice in setting executive compensation, and why I supported the compensation limits in the American Recovery and Reinvestment Act. More can and will be done to bring accountability to the executive compensation system, but it must be deliberate, responsible, and respectful of individual rights.”

Born and raised in Delaware County, former 3-star Admiral Joe Sestak served in the Navy for 31 years and now serves as the Representative from the 7th District of Pennsylvania. He led a series of operational commands at sea, including Commander of an aircraft carrier battle group of 30 U.S. and allied ships with over 15,000 sailors and 100 aircraft that conducted operations in Afghanistan and Iraq. After 9/11, Joe was the first Director of “Deep Blue,” the Navy’s anti-terrorism unit that established strategic and operations policies for the “Global War on Terrorism.” He served as President Clinton’s Director for Defense Policy at the National Security Council in the White House, and holds a Ph.D. in Political Economy and Government from Harvard University. According to the office of the House Historian, Joe is the highest-ranking former military officer ever elected to the U.S. Congress.

###